

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

File No. 1:08-CR-52

v.

HON. ROBERT HOLMES BELL

DEMARIO MATTHEWS,

Defendant.

MEMORANDUM OPINION AND ORDER

This matter is before the Court on Defendant Demario Matthews's motion for reduction of sentence pursuant to 18 U.S.C. § 3582 and Amendment 599 to the United States Sentencing Guidelines.

In the absence of an express statute or rule to the contrary, a district court does not have jurisdiction to reconsider or modify a term of imprisonment. *United States v. Ross*, 245 F.3d 577, 586 (6th Cir. 2001). A court is authorized to reduce a term of imprisonment pursuant to 18 U.S.C. § 3582(c)(2) if the defendant's sentence was based on a sentencing range that has "subsequently" been lowered by the Sentencing Commission.

The effective date of Amendment 599, the amendment Defendant relies on, was November 1, 2000. Defendant was sentenced on July 21, 2008. (Dkt. No. 30.) Because Defendant was sentenced after Amendment 599 was already in effect, Amendment 599

cannot serve as the basis for a motion for modification of sentence under 18 U.S.C. § 3582(c)(2). Accordingly,

IT IS HEREBY ORDERED that Defendant's motion for reduction of sentence pursuant to 18 U.S.C. § 3582 and Amendment 599 (Dkt. No. 33) is **DENIED**.

Date: April 3, 2009

/s/ Robert Holmes Bell
ROBERT HOLMES BELL
UNITED STATES DISTRICT JUDGE